

Application No. 10/603,007  
Amendment dated December 20, 2004  
Reply to Office Action of September 20, 2004

**Amendments to the Drawings:**

Please replace Figure 3B, Figure 4A, and Figure 4B with the attached "Replacement Sheets" incorporating minor numbering corrections. Opening 149 was incorrectly numbered opening 148 in the original drawings and these "Replacement Sheets" correct this error. A marked-up copy of the figures, as amended, are included herewith in Appendix A and are each labeled "Annotated Sheet".

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### **REMARKS**

Claims 1-11, 13-21, and 23-29 are pending in the application. The Examiner objected to Claims 5, 7, 9-12, 17-22 and 25-29 and rejected Claims 1-4, 6, 8, 13-16, 23 and 24. Applicants hereby cancel Claims 12 and 22.

#### **Specification**

The specification has been amended to correct minor errors.

Applicants have amended Claim 8 to match the language of the specification. Applicants respectfully submit that support for Claim 8 is found in paragraph [0041] which indicates that "boss 80 may be asymmetrical, thereby eliminating the requirement for pin 84..."

#### **Abstract**

The abstract has been amended to correct minor errors.

#### **Drawings**

Figures 3B, 4A, and 4B have been amended to correct minor numbering errors.

#### **Claim Objections**

The Examiner objected to Claims 25 and 26. Applicants have amended Claims 25 and 26 to obviate this objection.

#### **Claim Rejections - 35 U.S.C. §112**

The Examiner rejected Claims 6 and 8 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Applicants have amended Claim 6 to obviate the Claim 6 rejection. Applicants respectfully submit that Claim 6 is now in condition for allowance.

Applicants respectfully submit that the rejection of Claim 8 is improper because the Examiner relies on the incorrect statement that the projection of Claim 8 is threaded. Nowhere does Claim 8, or Claim 5 from which it depends, recite that the claimed projection is threaded. Therefore, Applicants respectfully submit that Claim 8 is in condition for allowance.

**Claim Rejections - 35 U.S.C. §102**

Claims 1-4, 13-16 and 23-24 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,725,080 to Melkent et al. (hereinafter "Melkent et al. '080"). Melkent et al. '080 discloses a multiple cannula image guided tool for image guided procedures, as shown in Figures 3 and 4a. Tool guide 125 includes a plurality of tracking markers 230 positioned at points on the upper surface of frame 300. Frame 300 firmly attaches to body 305 of tool guide 125 by sliding onto a dovetail formed on the top of mounting post 380. Applicants respectfully submit that Melkent et al. '080 does not disclose or suggest an apparatus usable with a computer-assisted navigation system including a support structure defining two adjacent and oppositely oriented dovetail-shaped projections having a common distal end as called for in amended Claims 1, 13, and 23.

Melkent et al. '080 discloses tool guide 125 including body 305, as shown in Figures 3 and 4a. Body 305 includes mounting post 380 with a dovetail formed on the top thereof. Frame 300 attaches to body 305 by sliding onto the dovetail formed on top of mounting post 380. Melkent et al. '080 does not disclose or suggest a support structure defining two adjacent and oppositely oriented dovetail-shaped projections having a common distal end as called for in amended Claims 1, 13, and 23. In contrast, the dovetail formed on body 305 is a single dovetail projection, the orientation of which fails to suggest an adjacent and oppositely oriented dovetail-shaped projection. Nowhere does Melkent et al. '080 disclose or suggest the use of an adjacent and oppositely oriented dovetail-shaped projection having a common distal end as called for in amended Claims 1, 13, and 23. The two adjacent and oppositely oriented dovetail-shaped projections of the claimed invention provide the advantage of allowing alternative configurations of the apparatus during surgery. Such alternative configurations permit the surgeon to choose the best position for the apparatus to communicate with the computer and to not interfere with the surgeon. Because Melkent et al. '080 does not disclose or suggest a support structure defining two adjacent and oppositely oriented dovetail-shaped projections having a common distal end, as called for in amended Claims 1, 13, and 23, Applicants respectfully request withdrawal of the 35 U.S.C. §102(e) rejection of Claims 1-4, 13-16, and 23-24.

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**Allowable Subject Matter**

Claims 5, 7, 9-12, 17-22 and 27-29 are objected to as being dependent upon a rejected base claim. Applicants have canceled Claims 12 and 22.

Claim 5 has been rewritten in independent form including all of the limitations of the base claim and all intervening claims. Applicants respectfully submit that Claim 5 and those depending therefrom, Claims 7 and 9, are now in condition for allowance.

In light of the amendments to Claim 1, Applicants respectfully submit that Claims 10-11 are now in condition for allowance.

Claim 17 has been rewritten in independent form including all of the limitations of the base claim and all intervening claims. Applicants respectfully submit that Claim 17 and those depending therefrom, Claims 18-19, are now in condition for allowance.

In light of the amendments to Claim 13, Applicants respectfully submit that Claims 20-21 are now in condition for allowance.

In light of the amendments to Claim 23, Applicants respectfully submit that Claims 27-29 are now in condition for allowance.

In addition, Applicants respectfully submit Claims 6 and 8 are now in condition for allowance.

It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the current application is in condition for allowance and such action is earnestly solicited.

In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

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If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,



Jason A. Houser  
Registration No. 53,038  
Attorney for Applicants

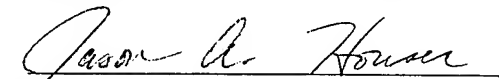
JAH/pas  
Enclosure(s):  
Postcard

BAKER & DANIELS  
111 E. Wayne Street, Suite 800  
Fort Wayne, IN 46802  
Telephone: 260-424-8000  
Facsimile: 260-460-1700

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December 20, 2004  
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APPENDIX A

# ANNOTATED SHEET

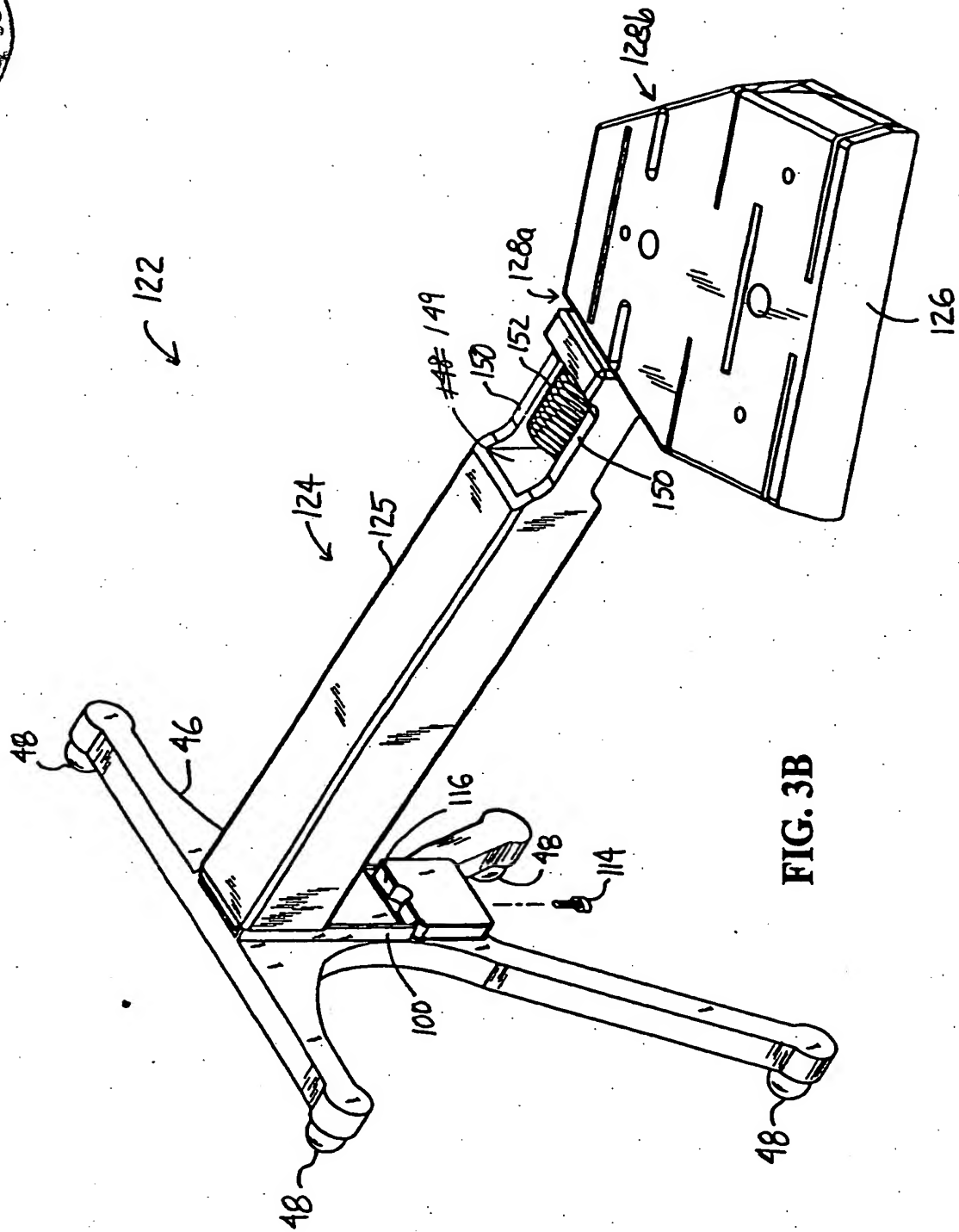


FIG. 3B

ANNOTATED SHEET

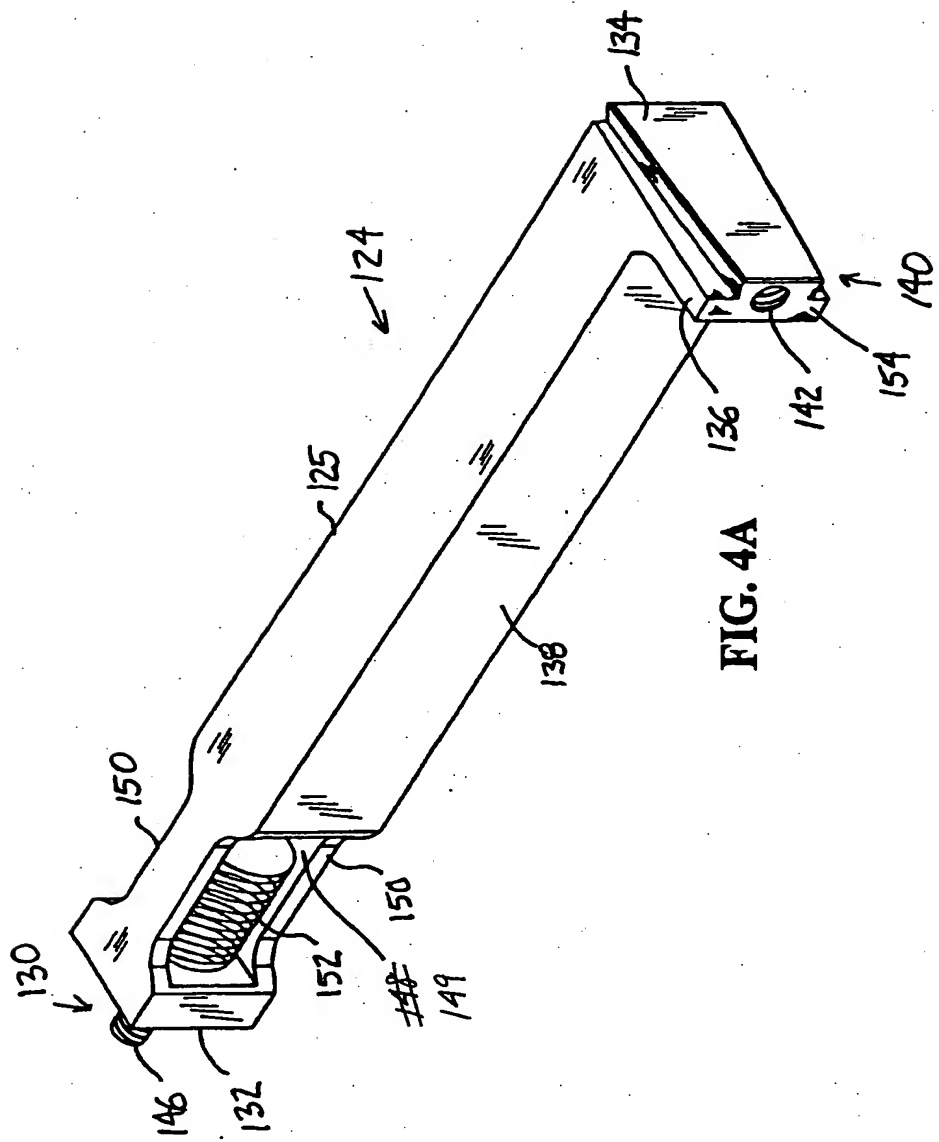
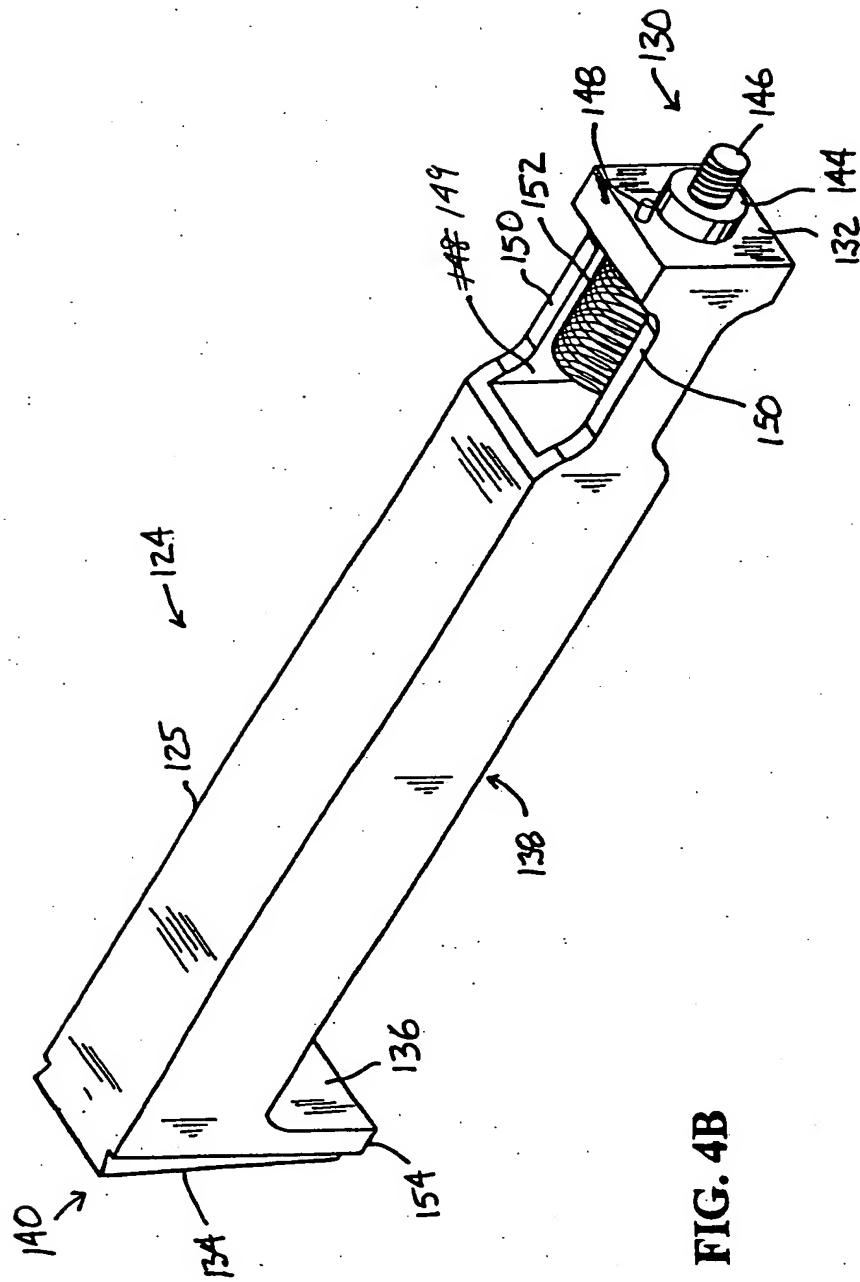


FIG. 4A



## ANNOTATED SHEET



**FIG. 4B**